

REMARKS

This Reply and Amendment is intended to be completely responsive to the Non-Final Office Action dated August 7, 2003. Claims 1-7, 10, 11, 13, 14, 19 and 20 stand rejected. Claims 8, 9, 12 and 15-18 are canceled. Applicants respectfully request reconsideration of the present Application in view of the reasons that follow.

Information from Related Applications

The present Application has been identified as a continuation-in-part Application claiming priority to earlier Applications. It is the Applicants' understanding that the Examiner has considered the references cited in the earlier Applications as described in M.P.E.P. § 2001.06(b).

Claim Rejections – 35 U.S.C. § 102

On page 1 of the Office Action, the Examiner rejected independent Claims 1, 7, and 10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,380,252 titled "Combined Trash Receptacle and Advertising Medium" issued to Richardson ("Richardson") or U.S. Patent No. 5,069,343 titled "Stackable Recycling Storage Bin Apparatus" issued to Markle ("Markle"). The Examiner stated: "All the references show all the structures of the device as recited by the claims."

Claims 1, 7, and 10 are in independent form and recite a "receptacle" comprising, in combination with other elements, a "slot provided on a side of the end portion."

Markle is directed to a "recycling storage bin apparatus" including a "pivoted entrance door" (see Markle at col. 1, lines 56-57; and Figures 3-4, and 7).

Richardson is directed to a "combined trash receptacle and advertising medium" including "an opening 27 in one of the inclined faces of such top, and a cover 28 hinged to cover such opening at will. A chute 29 is formed of sheet material, comprising an upper, downwardly

inclined wall 30, secured to the top side beyond the upper edge of opening 27, with side portions 31, which are substantially triangular with their base edges extending toward the opening 27” (see Richardson at col. 2, line 130 and col. 3, lines 1-9; and Figures 1, and 3-4).

Markle and Richardson do not identically disclose a “receptacle” comprising, among other elements, a “slot provided on a side of the end portion” as recited in independent Claims 1, 7, and 10. The rejections of Claims 1, 7, and 10 over Markle and Richardson are improper. Claims 1, 7, and 10 are patentable over Markle and Richardson.

Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of Claims 1, 7, and 10.

Claim Rejection – 35 U.S.C. § 103

On page 1 of the Office Action, the Examiner rejected Claims 1-7, 10, 11, 13, 14, 19, and 20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 1,380,252 titled “Combined Trash Receptacle and Advertising Medium” issued to Richardson (“Richardson”) or U.S. Patent No. 5,069,343 titled “Stackable Recycling Storage Bin Apparatus” issued to Markle (“Markle”). The Examiner stated that: “It would have been obvious to design the containers of Richardson and Markle in any desired size for any desired content.”

Claims 1, 7, and 10 are in independent form and recite a “receptacle” comprising, in combination with other elements, a “slot provided on a side of the end portion.” Claims 2-6, 11, 13, 14, 19 and 20 depend from independent Claims 1, 7, and 10.

Markle is directed to a “recycling storage bin apparatus” including a “pivoted entrance door” (see Markle at col. 1, lines 56-57; and Figures 3-4, and 7).

Richardson is directed to a “combined trash receptacle and advertising medium” including “an opening 27 in one of the inclined faces of such top, and a cover 28 hinged to cover such opening at will. A chute 29 is formed of sheet material, comprising an upper, downwardly

inclined wall 30, secured to the top side beyond the upper edge of opening 27, with side portions 31, which are substantially triangular with their base edges extending toward the opening 27” (see Richardson at col. 2, line 130 and col. 3, lines 1-9; and Figures 1, and 3-4).

The “receptacle” recited in independent Claims 1, 7, and 10 would not have been obvious in view of Markle or Richardson, alone or in any proper combination under 35 U.S.C. § 103(a). Neither Markle nor Richardson, alone or in any proper combination disclose, teach or suggest a “receptacle” comprising, in combination with other elements, a “slot provided on a side of the end portion”. To transform the “stackable recycling storage bin apparatus” of Markle or the “combined trash receptacle and advertising medium” of Richardson, into a “receptacle” with a “slot provided on a side of the end portion” (as recited in Claims 1, 7, and 10) would require still further modification, and such modification is taught only by the Applicants’ own disclosure. The suggestion to modify the “stackable recycling storage bin apparatus” of Markle or the “combined trash receptacle and advertising medium” of Richardson has been taken from Applicants’ own specification (using hindsight), which is improper.

The “receptacle” recited in independent Claims 1, 7, and 10, considered as a whole, would not have been obvious in view of Markle or Richardson. The rejection of Claims 1-7, 10, 11, 13, 14, 19, and 20 in view of Markle or Richardson under 35 U.S.C. § 103(a) is improper. Therefore, Claims 1, 7, and 10 are patentable over Markle and Richardson.

Dependent Claims 2-6, 11, 13, 14, 19, and 20, which depend from independent Claims 1, 7, and 10, are also patentable. See 35 U.S.C. § 112 ¶ 4.

Applicants respectfully request withdrawal of the rejection of Claims 1-7, 10, 11, 13, 14, 19 and 20 under 35 U.S.C. § 103(a).

Nonstatutory Double Patenting Rejection

On page 2 of the Office Action, the Examiner rejected Claims 1-7, 10, 11, 13, 14, 19 and 20 under the judicially created doctrine of double patenting over the patented Claims of U.S.

Patent No. 6, 185,355 to Luedecke. A terminal disclaimer is provided to overcome this rejection. Accordingly, Applicants respectfully request withdrawal of the rejection of Claims 1-7, 10, 11, 13, 14, 19 and 20 under the judicially created doctrine of double patenting.

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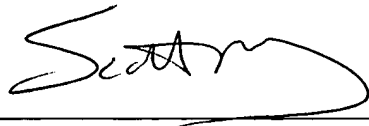
Claims 1-7, 10, 11, 13, 14, 19, and 20 are now pending in this Application. No new matter has been added. The Applicants submit that each and every outstanding rejection to the pending Claims has been overcome, and that the Application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 11/7/03

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